

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

DANIEL GRAHAM,

Plaintiff,

V.

ASSURANCE IQ LLC

Defendant.

Case No. 1:22-cv-110

DEFENDANT'S NOTICE OF REMOVAL

Defendant Assurance IQ LLC (“Assurance”), by and through its attorneys, Dentons US LLP, hereby removes to this Court, pursuant to 28 U.S.C. §§ 1332, 1441(b), and 1446, the civil action pending in the Travis County, Texas Justice of Peace, Precinct 2, under the caption *Daniel Graham v. Assurance IQ LLC*, No. J2-cv-22-00276 (the “State Court Action”). Under 28 U.S.C. § 1446(d), a copy of this Notice of Removal is being transmitted to the Clerk of the Travis County, Texas Justice of Peace, Precinct 2, for prompt filing. Assurance will promptly serve Plaintiff with written notice of filing this Notice of Removal as required by 28 U.S.C. § 1446(d). The following is a short and plain statement of the grounds for removal:

FACTUAL AND PROCEDURAL BACKGROUND

1. Plaintiff Daniel Graham (“Plaintiff”) commenced the State Court Action by filing her Telephone Consumer Protection Act (“TCPA”) Complaint (“Complaint”) on January 20, 2022. (*See* Complaint, attached hereto as part of **Group Exhibit A.**)

2. The Complaint purports to allege claims under the TCPA, asserting that Assurance violated the TCPA by making unlawful telephone calls and text messages.¹ Plaintiff seeks damages for alleged violations. (*Id.*).

3. This is a civil action over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1331, and is one which may be removed to the Western District of Texas pursuant to the provisions of 28 U.S.C. §§ 1441(a) and 1446.

4. Pursuant to 28 U.S.C. § 1446(a), Assurance has attached hereto, as **Group Exhibit A**, all the state court process, pleadings, and orders docketed in this matter.

REMOVAL IS TIMELY

5. On January 26, 2022, service was perfected upon Assurance. (*See* Notice of Service of Process, attached hereto as part of **Group Exhibit A.**)

¹ Assurance disputes the allegations in the Complaint, including, but not limited to, disputing that there has been any wrongful conduct.

6. This Notice of Removal is timely, in accordance with 28 U.S.C. § 1446(b), as it is filed within 30 days after Assurance was served with the Summons and Complaint, which sets forth the claims upon which the Notice of Removal is based. *See Murphy Bros. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 354 (1999).

VENUE

7. Venue lies in the Western District of Texas, Austin Division, pursuant to 28 U.S.C. § 1446(a), because the action was filed within this District and Division.

JURISDICTION IS PROPER UNDER 28 U.S.C. § 1332

9. District courts have original subject matter jurisdiction over all civil actions arising under the laws of the United States, 28 U.S.C. § 1331, including claims brought under the TCPA, 47 USC § 227. *See Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740, 745 (2012).

NO WAIVER OF DEFENSES AND OBJECTIONS

10. Assurance, by virtue of filing this Notice of Removal, does not waive any defenses or objections available to it under the law.

CONCLUSION

WHEREFORE, Assurance prays that the State Court Action described above be removed to the Western District of Texas, Austin Division.

This, the 9th day of February, 2022.

Respectfully submitted,

DENTONS US LLP

/s/ Mukul S. Kelkar

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Attorney for Defendant

CERTIFICATE OF SERVICE

The undersigned counsel hereby certifies that a copy of the foregoing was served this 9th day of February, 2022, via First Class U.S. Mail, postage prepaid, on the following:

Daniel Graham
5812 Mossbrook Trail
Dallas, Texas 75252
214-236-7996

/s/ Mukul S. Kelkar
Mukul S. Kelkar